

**ANNUAL TOWN MEETING
May 4, 2006**

The Meeting was called to order at 7:56 PM by Moderator, Robert B. McPherson.

Richard Foisy, Town Assessor, led the Pledge of Allegiance.

Chuck and Mudd (Charles Demers and Marie Rocheleau-Demers) sang the National Anthem.

Anna Marie Hughes was presented the Meritorious Service Award by Selectman, Peter J. Adams.

Moderator announced the Grand Opening of the Rail Trail on Saturday, June 3rd at 9:00 AM.

The following articles were acted upon:

Article 1: Majority voted, as a block, that the Town approve a consent agenda consisting of the following actions. Such items may be voted as a block, or singly, or in any combination but however voted, will be treated for accounting and legislative purposes as if each item voted were voted as a separate article.

A. Receive, in writing, the reports of the Town Officers and Committees.

B. Authorize the following committees and/or boards to appoint any of its members to a position under its jurisdiction as authorized by Section 4A, Chapter 41 and Section 21A, Chapter 268A of the Massachusetts General Laws:

Zoning Board of Appeals
Planning Board
Finance Committee
Conservation Commission
Parks & Recreation
Council on Aging

C. Authorize the Planning Board to establish a revolving fund in conformity with Chapter 44, Section 53E ½ of the Massachusetts General Laws for the following purposes and subject to the following conditions:

1. To be the depository for monies received from ANR Fees and Subdivision Fees.
2. To be used to fund the administrative costs of the Planning Board.
3. To have a limit on the total amount to be expended from the fund in Fiscal Year 2007 at \$5,000.
4. To have the Planning Board be the only authority empowered to expend monies from this fund.

D. Authorize the Parks & Recreation Department to establish a revolving fund in conformity with Chapter 44, section 53E ½ of the Massachusetts General Laws, for the following purposes and subject to the following conditions:

1. To be the depository for charges and fees received in connection with programs and activities offered in accordance with its authority.
2. To pay expenses associated with the same, and the costs of rental or maintenance of facilities utilized for the same, but excepting wages and salaries for full-time employees.
3. To have a limit on the total amount to be expended from the fund in Fiscal Year 2007 at \$10,000.
4. To have the Parks & Recreation Department be the only authority empowered to expend monies from this fund.

E. Authorize the establishment of a revolving fund for the Sugden Block in conformity with Chapter 44, Section 53E ½ of the Massachusetts General Laws, for the following purposes and subject to the following conditions:

1. To be the depository for receipts of rentals and charges from the Sugden Block.
2. To pay expenses associated with the operation of the Sugden Block.
3. To have a limit on the total amount to be expended from the fund in Fiscal Year 2007 at \$59,000.
4. To have the Town Administrator be the only authority empowered to expend monies from this fund.

F. Authorize the Office of Development & Inspectional Services to establish a revolving fund in conformity with Chapter 44, Section 53E ½ of the Massachusetts General Laws, for the following purposes and subject to the following conditions:

1. To be the depository for 80% of the fees collected for Electrical Permits.
2. To compensate the Wiring Inspector.
3. To have the limit on the total amount to be expended from the fund in Fiscal Year 2007 at \$16,250.
4. To have the Director of the Office be the only authority empowered to expend monies from this fund.

G. Appropriate the sum of money, received or to be received, from the Chapter 90 State Aid to Highways Program for highway construction and/or maintenance to be expended upon any State approved road during Fiscal Year 2007, with such funds to be reimbursed 100% from such program for approved projects under the State Highway Guidelines.

H. Authorize the Board of Selectmen to apply for, accept, and expend the following funds:

Community Development Block Grant funds

I. Authorize the Town Treasurer and Collector to enter into a compensating balance agreement or agreements for Fiscal Year 2007 pursuant to Massachusetts General Laws, Chapter 44, Section 53F, and further vote to authorize the Town Treasurer to borrow such sums of money as they may deem necessary, with the consent of the Finance Committee, in anticipation of revenue and/or reimbursements and to issue notes of the Town payable thereof in accordance with applicable law.

Article 2: Voted unanimously that the Town amend the Personnel By-Law, as amended, by deleting it in its entirety and substituting in its place a new Personnel By-Law as outlined below, with the complete copy attached: (See Town Clerk for Copy)

1. Personnel By-Law, Authorization and Definitions
2. Personnel Board
3. Classification Plan
4. Compensation Plan
5. Amendment of the Plans
6. Salary, Wage and Miscellaneous Compensation Schedules
7. Work Week
8. Overtime Compensation
9. Benefits and Leaves

This amendment shall take effect upon Town Meeting approval and certification by the Town Clerk.

Article 3: Majority voted that the Town vote, as a block, to:

A. Fix the salaries of the elected officials or employees for Fiscal Year 2007 as follows:

Board of Selectmen	\$2,020.00
Moderator	\$128.00
Board of Assessors (Term Ending 2007)	\$14,199.00
Board of Assessors (Term Ending 2008)	\$14,199.00
Board of Assessors (Term Ending 2009)	\$904.00
Town Collector	\$46,650.00
Town Clerk	\$46,100.00
Treasurer	\$8,500.00
Water Commissioners	\$685.00
Sewer Commissioners	\$685.00
Board of Health	\$685.00

B. Authorize the Town Administrator to transfer funds from FY 2007 General Fund Account #11123-56000, Water Fund Account #15000-31510 and Sewer Fund Account #20000-31510 as required to meet the additional expense, if any, thereof.

Article 4: Majority voted that the Town amend the Personnel By-Law by substituting the following new compensation schedules, Effective July 1, 2006:

A. Amend the Personnel By-Laws by:

Section 7, Schedule B
General Weekly Salary Schedule

	I	II	III	IV	V
Grade S-2	\$317.87	\$338.68	\$364.66	\$390.77	\$416.79
Grade S-3	\$364.66	\$390.77	\$416.79	\$442.85	\$470.17
Grade S-4	\$416.79	\$442.85	\$470.17	\$494.98	\$520.97
Grade S-5	\$470.17	\$494.98	\$520.97	\$547.12	\$573.04
Grade S-6	\$520.97	\$547.12	\$573.04	\$598.41	\$638.25
Grade S-7	\$573.04	\$598.41	\$638.25	\$677.29	\$716.41
Grade S-8	\$638.25	\$677.29	\$716.41	\$755.49	\$794.59
Grade S-9	\$716.41	\$755.49	\$794.59	\$830.00	\$879.49
Grade S-9A	\$755.49	\$795.63	\$833.11	\$879.49	\$929.55
Grade S-10	\$794.59	\$830.00	\$879.49	\$927.78	\$978.81
Grade S-11	\$879.49	\$927.78	\$978.81	\$1,032.65	\$1,090.10
Grade S-12	\$978.81	\$1,032.65	\$1,090.10	\$1,127.29	\$1,212.54
Grade S-13	\$1,090.10	\$1,127.29	\$1,212.54	\$1,279.22	\$1,350.22
Grade S-14	\$1,212.54	\$1,279.22	\$1,350.22	\$1,424.48	\$1,503.55

2. Substituting the following new compensation schedule:

Section 7, Schedule D

Class Title	Compensation
Administrative Intern / Co-op Student	\$7.75
Animal Control Officer	\$9,025.00
Animal Control Officer - Alternate	\$535.00
Animal Inspector	\$3,025.00
COA Coordinator	\$15.25
Election Inspectors	\$8.79
Election Wardens / Clerks	\$9.75
Facilities Maintenance Worker	\$10.29
Finance Committee Secretary	\$350.00
Fluoride Coordinator	\$10.38
Gas Inspector	\$3,225.00
Laborer (Seasonal/Intermittent)	\$10.00
Library Childhood Literacy Coordinator	\$92.00
Library Home Delivery	\$11.09
Parks & Recreation Beach Supervisor	\$13.90

Parks & Recreation Lifeguard (Seasonal)	\$11.00
Parks & Recreation Summer Ass't. Program Director	\$8.65
Parks & Recreation Summer Program Director	\$15.25
Parks & Recreation Water Safety Instructor	\$12.45
Parks & Recreation Chair	\$350.00
Parks & Recreation Clerk	\$350.00
Planning Board	\$904.00
Plumbing Inspector	\$4,289.00
Police Dispatcher	\$13.12
Registrars	\$1,106.00
Sealer of Weights & Measures	\$3,636.00
SEMA, Director of Operations	\$1,900.00
SFD Captain	\$15.52
SFD Deputy Chief	\$7,385.00
SFD Fire Science Instructor	\$16.89
SFD Firefighter (5-10 years)	\$11.93
SFD Firefighter (over 10 years)	\$13.14
SFD Firefighter (under 5 years)	\$10.74
SFD Firefighter (sub)	\$8.05
SFD Lieutenant	\$14.33
SFD Truck Engineer Back Line	\$370.00
SFD Truck Engineer Front Line	\$492.00
Tree Climber	\$16.13
Tree Groundman	\$13.92
Tree Warden	\$18.92
Veterans Agent	\$9,464.00
Wiring Inspector	80% of fees (capped)
Zoning Board of Appeals	\$904.00
Zoning Board of Appeals Alternate	\$426.00

3. Substituting the following new compensation schedule:

Section 8					
Hourly Salary Schedule					
	I	II	III	IV	V
Grade S-1	\$7.87	\$8.38	\$8.92	\$9.47	\$10.14
Grade S-2	\$8.92	\$9.47	\$10.14	\$11.00	\$11.64
Grade S-3	\$10.14	\$11.00	\$11.64	\$12.46	\$13.04
Grade S-4	\$11.64	\$12.46	\$13.04	\$13.93	\$14.55
Grade S-5	\$13.04	\$13.93	\$14.55	\$15.38	\$16.05
Grade S-6	\$14.55	\$15.38	\$16.05	\$16.85	\$17.97

Grade S-7	\$16.05	\$16.85	\$17.97	\$18.95	\$20.01
Grade S-8	\$17.97	\$18.86	\$19.81	\$20.80	\$21.84
Grade S-9	\$19.81	\$20.80	\$21.84	\$22.92	\$24.06
Grade S-10	\$21.84	\$22.92	\$24.06	\$25.27	\$26.52
Grade S-11	\$24.06	\$25.26	\$26.52	\$27.85	\$29.25
Grade S-12	\$26.52	\$27.85	\$29.25	\$30.70	\$32.24

B. Authorize the Town Administrator to transfer funds from the FY 2007 General Fund Account #11123-56000, the Water Fund Account #15000-56000, the Sewer Fund Account #20000-56000 as required to meet the additional expense, if any, thereof.

Article 5: Voted unanimously that the Town authorize the SelectBoard to sell, upon such terms and conditions as it deems reasonable, appropriate, and in the best interests of the town, the property generally known as the Cherry Street Fire Station located at 11 Cherry Street (identified as Map U-7 Parcel 54 on the records of the Board of Assessors) and further to authorize the SelectBoard to negotiate, execute, and deliver such deeds and other documents it deems necessary to carry out the purposes of this article.

Article 6: Voted unanimously, as a block, that the Town authorize the SelectBoard, for consideration of less than \$100.00 per transaction and upon such terms and conditions as it deems reasonable, appropriate, and in the best interests of the Town, to:

A. Acquire a utility easement of 9,000+/- s.f. from Ahearn Realty LLC over certain land at 460 Main Street (identified as Map R-34 Lot 8B on the records of the Board of Assessors).

B. Abandon all right, title, and interest in a utility easement of 8,250+/- over said land owned by said Ahearn Realty LLC.

C. Further authorize the SelectBoard to negotiate, execute, deliver, and accept such deeds and other documents it deems necessary to carry out the purposes of this article.

Article 7: Voted unanimously that the Town authorize the SelectBoard for consideration of less than \$100.00 and upon such terms and conditions as it deems reasonable, appropriate, and in the best interests of the town, to acquire a parcel of land of 8+/- acres from the Spencer Agricultural Association, Inc., located on Smithville Road (and being a portion of land generally identified as Map R-32 Lot 28 on the records of the Board of Assessors), and to further authorize the SelectBoard to negotiate, execute, deliver, and accept such deeds and other documents it deems necessary to carry out the purposes of this article.

Article 8: Voted unanimously that the Town authorize the SelectBoard for consideration of less than \$100.00 and upon such terms as it deems reasonable, appropriate, and in the best interests of the town, to acquire a parcel of land of 7,000+/- s.f. from David P. Durgin located on 24 Wall Street (and being a portion of land generally identified as Map U-7 Lot 27 on the records of the Board of Assessors), and to further authorize the SelectBoard to negotiate, execute, deliver, and accept such deeds and other documents it deems necessary to carry out the purposes of this article.

Article 9: Majority voted that the Town authorize the SelectBoard, upon such terms and conditions as it shall deem reasonable, appropriate, and in the best interests of the Town, to enter into one or more intermunicipal agreements to allow the Board of Health to provide to, and accept from, other governmental units such public health services which said Board, or any other Board, is authorized to provide, in accordance with Chapter 40, Section 4A, for a term not to exceed 25 years provided, however, that no such agreement shall impose on the town a financial liability in excess of available appropriations.

Article 10: Majority voted that the Town, as a block, amend its General By-Laws by adding a new article to be entitled “Article 9A: Vicious Dogs” and read as follows:

Section 1. Purpose

It is the purpose of this by-law to regulate the keeping of “Vicious Dogs” to protect the health and safety of the public.

Section 2. Definitions

“Animal Control Officer” (ACO) means a person designated by the Town Administrator, including, but not limited to, representatives of any private contractor or its successor, to handle and manage issues dealing with animals including, but not limited to, dogs.

“Dog” means any member of the canine species.

“Owner” or “Keeper” means any person who has actual or constructive possession of a dog. The term also includes those persons who provide food and shelter to a dog.

“Vicious Dog” means any dog, regardless of breed, breeding, type or appearance, which, when unprovoked, in an aggressive manner, inflicts injury on or kills a human being. The term shall also mean that any dog, regardless of breed, breeding, type or appearance, which, when unprovoked, has killed, seriously bitten, inflicted serious injury upon, or attacked a domestic pet or animal off the property of the owner or keeper of the dog.

“Potentially Dangerous Dog” means any dog, regardless of breed, breeding, type or appearance, which, when unprovoked, engages in any behavior that requires defensive action by a human or domestic animal to prevent bodily injury when the person and the dog are off the property of the owner or keeper, or while on the owner or keeper’s property and the animal is not under control of the owner/keeper or is not properly restrained. If two or more situations within 12 months as described above are documented by the ACO, and the owner or keeper is notified, the dog may be deemed “Vicious” and subject to all the provisions and requirements contained in this by-law. Any decision by the ACO is subject to appeal as per Section 7 of this by-law.

- (a) No dog may be declared potentially dangerous or vicious if any injury or damage is sustained by a person/s who, at the time the injury or damage was sustained, was committing a willful trespass upon the premises occupied by the owner/keeper of the dog, or was teasing, tormenting, abusing, assaulting, startling, or was committing or

attempting to commit a crime, nor if the dog was defending a person within the immediate vicinity of the dog from an unjustified attack or assault.

- (b) No dog may be declared potentially dangerous or vicious if the injury or damage to a domestic animal was sustained while the dog was working as a hunting dog, herding dog, or predator control dog on the property of, or under control of, its owner or keeper, and the injury was to a species or type of domestic animal appropriate to the work of the dog.

“Running At Large” for a vicious dog, means that a vicious dog is not:

- (a) On a leash (see “Physical Restraint”);
- (b) In a suitable locking transport cage;
- (c) Secured in a vehicle; or
- (d) In a suitable outdoor containment area as per Section 4.

“Physical Restraint” means on a leash suitable for the dog (minimum 300 lb. tensile strength) and controlled by a person physically capable of controlling such dog. The person must be at least eighteen (18) years of age.

“Muzzle” means a device placed around the mouth of a dog so as not to injure the dog but prevent it from biting any person or animal.

“Schutzhund” means the sport of training a dog for tracking, finding objects, obedience to commands, and protection by attacking when defending the handler or on command. Schutzhund trained dogs are never aggressive except under specific situations they are trained to face, and only under the absolute control of the handler.

Section 3. Licensing of Vicious Dogs

- 3.1 The ACO shall notify the Town Clerk of all Vicious Dogs as defined by this by-law. Upon such notice, the Town Clerk shall notify the Owner or Keeper of the dog that unless contested in accordance with the appeal procedure of Section 7 of this by-law, the dog will be considered “Vicious” and any previously issued license will be considered immediately revoked. Owners or Keepers must re-license the dog as “Vicious” or notify the Town Clerk as to the disposition of the dog within fourteen (14) days of this notice. A unique licensing number shall be assigned to a Vicious Dog by the Town Clerk. That number shall be noted on the Town licensing files.
- 3.2 Any person acquiring a dog, either for temporary or permanent housing, that has been ordered to be removed from any other state, city, or town, for any reason, must register said dog with the Town Clerk in Spencer within seventy-two (72) hours of arrival of the dog, with a copy of any removal orders. Said dog shall be licensed as Vicious or Potentially Dangerous and will be subject to all provisions of this by-law.

- 3.3 No Vicious Dog shall be licensed by the Town of Spencer for any licensing period after the acceptance of this by-law unless the Owner or Keeper of such Vicious Dog shall meet the following requirements:
- 3.3.1 The Owner or Keeper shall present to the Town Clerk proof that the Owner or Keeper has procured liability insurance in the amount of at least one hundred thousand dollars (\$100,000.00) covering any damage or injury which may be caused by such Vicious Dog during the twelve-month period for which the license is sought. The policy shall contain a provision requiring the Town to be notified at least thirty days prior to cancellation, termination, or expiration of such liability coverage.
 - 3.3.2 The Owner or Keeper shall maintain and not voluntarily cancel the liability insurance required by this section during the twelve-month period for which licensing is sought, unless the owner or keeper shall cease to own or keep the Vicious Dog prior to expiration of such license.
 - 3.3.3 The Owner or Keeper shall display a sign not to exceed one square foot on his or her premises in accordance with a common standard to be established by the ACO, warning that there is a Vicious Dog on the premises. The sign shall be visible and capable of being read from the public highway or roadway.
 - 3.3.4 The Owner or Keeper shall, on or prior to the effective date of such license for which application is being made, have a fenced enclosure for the Vicious Dog on the property where the Vicious Dog will be kept or maintained (See Section 4).
 - 3.3.5 Annually, at the time of renewal of the Vicious Dog license and prior to issuance of the initial license, all Owners or Keepers shall provide the licensing authority with two recent (within thirty [30] days) photographs of said Vicious Dog. These photos will consist of one close-up head shot and one side-standing viewpoint. Any distinguishing markings will be noted on the back of said photograph.
 - 3.3.6 The fee for licensing, or re-licensing, of a Vicious Dog under the provisions of this by-law shall be double that of the license fee otherwise established in the Town for the licensing of non-vicious dogs. Such license fee shall be without apportionment for any partial portion of the year or credit for any fee previously paid.

Section 4. Control of Vicious Dogs

All Vicious Dogs shall be confined in an enclosure (chain link or equivalent fencing secured on all four sides and top if deemed necessary by the ACO, with a locking gate, and a minimum size of 12' x 12'). It shall be unlawful for any Owner or Keeper to maintain a Vicious Dog upon any premise which does not have a locked enclosure or for any Owner or Keeper to allow any Vicious Dog to be outside the dwelling of the Owner or Keeper or outside of the enclosure unless it is necessary for the Owner or Keeper to obtain veterinary care for the Vicious Dog, or

to sell or give away the Vicious Dog or to comply with the commands or directions of the ACO, or to comply with the provisions of this by-law. In such event, the Vicious Dog shall be securely muzzled and "Physically Restrained" with a restraint having a minimum tensile strength of three hundred (300) pounds and a length not exceeding four (4) feet, and shall be under the direct control and supervision of the Owner or Keeper of the Vicious Dog.

Section 5. Requirement to Notify

The Owner or Keeper of a Vicious Dog shall, within forty-eight (48) hours of an event hereinafter specified, notify the ACO if said dog is unconfined, has attacked another dog or animal, has attacked a human, has died, or has been given away; the Owner or Keeper shall also provide the ACO with the name, address, and telephone number of the new owner of the Vicious Dog. The Owner or Keeper shall provide written documentation from a licensed veterinarian in the event of the death or destruction of the animal unless the death or destruction has been confirmed visually by the ACO.

Section 6. Attack Dogs

No person shall own or harbor any dog for the purpose of dog fighting, or train, torment, badger, bait, or use any dog for the purpose of causing or encouraging said dog to attack human beings, animals, or other dogs, unless being trained for law enforcement or involved in the sport of "Schutzhund."

Section 7. Enforcement and Appeal

- 7.1 The ACO shall enforce the provisions of this by-law using the following enforcement actions: assessing fines; issuing written warnings; performing inspections; issuing orders of restraint, confinement, or muzzling; making recommendations to the Board of Selectmen concerning Vicious Dogs, orders of permanent restraint, seizure, or destruction.
- 7.2 Any person aggrieved by a decision of the ACO may appeal therefrom by filing a written appeal request with the Town Clerk within ten (10) days of issuance of the ACO's decision. The Town Clerk shall forthwith notify the Board of Selectmen of the appeal, and the Board of Selectmen shall hold a hearing thereon within thirty (30) days of the filing of the appeal. It shall render its decision within thirty (30) days of the conclusion of the hearing.
- 7.3 The Board of Selectmen, acting either on an appeal by a person aggrieved by a decision of the ACO or on a recommendation from the ACO, may, after a hearing at which the ACO and the person aggrieved, as well as any complainants, are provided an opportunity to be heard, may affirm, reverse, or modify the ACO's decision, and may order a license revocation, the permanent restraint, confinement or muzzling of the dog, seizure by the ACO, or its destruction in accordance with guidelines of the Massachusetts Society for the Prevention of Cruelty to Animals.

- 7.4 It is the intent that all costs, including medical care, associated with the impoundment of a dog for any reason in accordance with this by-law and MGL be the sole responsibility of the Owner or Keeper of the dog. Impoundment costs for vicious dogs shall be double the impoundment costs established in the Town for the impoundment of non-vicious dogs.

Section 8. Penalties - Non-Criminal Disposition

(Article 11 Section 5) M.G.L. Chapter 40, Section 21D

The violation of any provision of this by-law may, as an alternative to criminal proceedings, be subject to a non-criminal disposition fine to be:

1 st violation	\$50.00
2nd violation	\$100.00
3rd and subsequent violations	\$150.00

Each day in which the violation exists shall constitute a separate offense.

This amendment shall take effect on January 1, 2007, subject to approval of the Massachusetts Attorney General and its posting in accordance with M.G.L. Ch. 40 § 32.

Article 11: Majority voted, as a block, that the Town amend its General By-Laws Article 5 Section 6 entitled "Fire Department" by:

- A.** Inserting in the title and in the first sentence, the words "and Emergency Services" after the word "Fire."
- B.** Striking the word "Fire" preceding the word "Chief" in the first sentence and striking the same word in paragraphs two and three of said section.
- C.** Inserting the word "personnel" before the words "officers and firefighters" in paragraph three of said section.
- D.** Adding the following paragraph:

Upon the effective date of this amendment, the department shall have all of the powers, functions, duties, and responsibilities now vested by any general or special law or by-law in, or exercised by, the Spencer Emergency Management Agency, and all records, property, equipment and facilities owned by the town and under the control of said Agency, which is hereby abolished, shall be transferred to and be under the control of the department. No existing contract or liability shall be affected by this amendment, and the department shall be the lawful successor of the Agency so abolished. Personnel in the Agency at the time of the effective date of this amendment will retain their current rank subject to their subsequent promotion, demotion, layoff, termination, resignation, or other vacating of their position.

This amendment shall take effect on January 1, 2007, subject to approval of the Massachusetts Attorney General and its posting in accordance with M.G.L. Ch. 40 § 32.

Article 12: Majority voted, as a block, that the Town,

A. Amend the Zoning By-Law by removing Section 7 - Signs, in its entirety. This amendment shall not take effect until the Signage amendment to the town's General By-laws as voted in paragraph B in this Article 12 takes effect.

B. Amend the General By-Laws by the addition of an Article 14 to be entitled "Signage" and to read as follows:

Section 1. General Provisions

- 1.1 Authority and Purpose. This section is adopted pursuant to MGL Chapter 43B, MGL Chapter 93 Section 29, and MGL Chapter 143 Section 3, and governs the placement of signs in the Town of Spencer. The purpose of this Signage By-Law is to protect and enhance the visual quality of the Town while encouraging economic development, by regulating the size, location, and lighting of advertising devices and other signs. This by-law is intended to encourage businesses to create signs which provide information to the public about their business, but in such a manner to preserve the visual quality of the community.
- 1.2 Applicability. No signs or advertising devices of any kind or nature shall be erected on any premises or affixed to the outside of any structure or be visible from the outside of any structure in Spencer except as specifically permitted in this by-law.
- 1.3 Amendments. This by-law may be amended from time to time provided that prior to its amendment:
 - 1.3.1 a public hearing has been held by the Planning Board with no less than two weeks notice to the public by means of advertisement in the publication so designated for other Town notices;
 - 1.3.2 a report and recommendation has been forwarded to the Town Clerk, with copies to the Board of Selectmen and Finance Committee by the Planning Board at least seven days before the amendment is to be acted upon;
 - 1.3.3 failure to deliver said report within the required timeframe shall negate the need for the report to have been filed prior to action; and
 - 1.3.4 for any amendments that could affect State or National Historical Districts in the Town, the public hearing referred to in 1.3.1 and the report referred to in 1.3.2 shall be conducted and prepared jointly with the Historical Commission.
- 1.4 Severability. The invalidity of any section or provision of this by-law shall not invalidate any other section or provision hereof.
- 1.5 Relationship to Other By-laws. Where this bylaw imposes greater restriction than those imposed by any other by-law, regulation, permit, approval, restriction, covenant, or agreement, the provisions of this bylaw shall control in all cases concerning the regulation of signs and other advertising devices.

Section 2. Definitions

For interpretation of this by-law, the following definitions shall apply:

“Sign” means any privately owned permanent or temporary structure, device, billboard, letter, word, banner, pennant, insignia, or representation which is used as, or which is in the nature of, an advertisement, announcement or direction, and which is within the public view. The following shall not be considered signs:

- (a) Flags and insignias of any government;
- (b) Legal notices, identification, informational or directional signs erected or required by governmental bodies.

“Signboard Area” means the total surface area of the sign, or when the sign consists of individual letters or an irregular shape, the area of the smallest rectangle into which the sign copy will fit. For double sided signs when the sign faces are placed back to back and face in opposite directions, the signboard area is defined as the area of one side.

“Sign Copy” means the letters, words, symbols, designs, etc. which make up the message being displayed on the sign, including protruding elements.

Section 3. Residential Zoning Districts

Signs or advertising devices are permitted as follows:

- 3.1 One sign displaying the street number or name of the occupant of premises, or both, not exceeding three (3) square feet in signboard area. Such sign may be attached to a building or may be on a rod or post not more than six (6) feet in height and not less than three (3) feet from the street right-of-way. Such sign may include identification of an accessory studio or professional office in the dwelling or on the premises, or may identify other permitted accessory uses.
- 3.2 One bulletin or announcement board or identification sign for a permitted non-residential building or use, not more than six (6) square feet signboard area. If freestanding, such sign shall be located a minimum of one-half the required front setback, and shall not exceed six (6) feet in height, measured from the average ground level under the sign.
- 3.3 For churches and institutions, two bulletin or announcement boards or identifications signs are permitted on each building. Each such church or institution sign shall be not more than ten (10) square feet signboard area. If freestanding, such sign shall be located a minimum of one-half the required front setback, and shall not exceed six (6) feet in height, measured from the average ground level under the sign.
- 3.4 On premises with a lawfully non-conforming use, one sign not more than six (6) square feet signboard area. If freestanding, such sign shall be located a minimum of

one-half the required front setback, and shall not exceed six (6) feet in height, measured from the average ground level under the sign.

- 3.5 No permanent sign shall contain any moving parts. No sign shall be of gaseous tube or illuminated tube type.

Section 4. Commercial and Industrial Zoning Districts

- 4.1 Signs shall relate to the premises on which they are located.
- 4.2 Signs shall not be more than one hundred (100) square feet signboard area per sign.
- 4.3 Freestanding signs. Where buildings are set back forty (40) feet or more from the street right-of-way, one free standing sign per lot is permitted. The top edge of any such free standing sign shall not be higher than twenty-five (25) vertical feet measured above the average level of the ground between the supports of the sign. For traffic safety, the whole of the signboard of any free standing sign shall be either below three (3) feet or above thirteen (13) feet in height above average ground level. The signboard area shall not exceed 100 square feet, and the maximum width shall not exceed 16 feet and the maximum height shall not exceed 12 feet. Any such free-standing sign may be located within the front setback, but not nearer than twelve (12) feet to any lot line.
- 4.4 Internally illuminated signs, including gaseous tube signs, are permitted, provided the illumination is steady and stationary (not flashing or moving in any manner).

Section 5. All Zoning Districts

- 5.1 Temporary signs.
- 5.1.1 No political, special promotion signs, banners, streamers, or placards shall be erected, suspended, posted or affixed in any manner outdoors or on the exterior of any building for a period of more than thirty (30) days before the promoted event or election, and shall be removed not later than 48 hours from the conclusion of the promoted event or election.
- 5.1.2 Temporary signs shall not exceed the maximum size allowed in the district in which they are placed.
- 5.2 Lighting of signs.
- 5.2.1 Illumination shall be by an externally located steady stationary light source, shielded and directed solely at the sign, unless otherwise permitted in Section 4.4;
- 5.2.2 Light sources to illuminate signs (except for gaseous tube signs as permitted above) shall neither be visible from any street right-of way nor cause glare hazardous to pedestrians or vehicle drivers or so as to create a nuisance to adjacent properties;

- 5.2.3 Spot-lighting of signs shall be restricted to not more than one shielded light fixture per side for sign faces up to 40 square feet and not more than 2 shielded light fixtures per side for sign faces over 40 square feet;
- 5.2.4 Signs shall not have light-reflecting backgrounds but may use light-reflecting lettering; and
- 5.2.5 Colored lamps are not permitted.
- 5.3 Off-premises signs. In any district, the Board of Appeals may allow by special permit off-premises sign(s) for a business provided that the sign(s) complies with the following conditions:
 - 5.3.1 It is free-standing and not attached to a building or other structure.
 - 5.3.2 It indicates the direction of a business not located on the lot on which the sign is located.
 - 5.3.3 It does not exceed 3 square feet in area if located in a residential zoning district, or 8 square feet in area if located in any other zoning district, nor does it extend more than 15 feet above ground.
 - 5.3.4 It is not self-illuminated.
 - 5.3.5 The owner of the lot on which the sign is to be located has signed a notarized statement filed with the Building Inspector allowing the sign's placement on the lot.
- 5.4 Window Signs. To ensure the health, safety, and welfare of the occupants and patrons of buildings, and to enhance the visibility of services or products and the aesthetics of the Town, signs placed in windows shall not exceed 40 percent of the window area and shall be placed to permit the interior of the building to be visible from the outside from the bottom of the window to 6 feet in height, measured from the average ground level outside the window.
- 5.5 Maintenance of Signs. All signs shall be maintained to be in sound structural condition and the face shall be maintained to be readable. Signs for businesses which cease to exist shall be removed or modified to eliminate the sign copy pertaining to the business within 30 days of closing.

Section 6. Pre-Existing, Non-Conforming Signs

- 6.1 Every sign lawfully in existence at the time of the adoption of this by-law may continue in existence and be maintained but may not be changed in any of its dimensions, configuration, or prominence or be relocated except to comply with this by-law, unless the change brings the sign more into conformity with the provisions of this by-law. Any sign

which has deteriorated to such an extent that the cost of restoration would exceed 35 percent of the replacement cost of the sign at the time of restoration shall not be repaired except to conform to the requirements of this by-law.

- 6.2 A lawfully existing non-conforming sign may have its surface and support renewed or replaced with new material without applying for a new permit if the replacement or renewal is for the same business and has the same dimensions, same copy and same location as the existing sign.

Section 7. Administration and Enforcement

- 7.1 This by-law shall be administered and enforced by the Building Inspector.
- 7.2 The Zoning Board of Appeals established under the Zoning By-Law is hereby empowered to hear and decide permitted exceptions to this Signage By-Law and to hear appeals of decisions made by the Building Inspector in regard to this by-law.

Section 8. Violations

- 8.1 Whosoever violates the provisions of this by-law shall be punished by a fine of \$25.00 for each day of said violation, not to exceed \$300.00 in total fines. Notice of violation and procedure shall be in accordance with MGL Chapter 40, Section 21D (Non-Criminal Disposition).
- 8.2 Nothing herein shall preclude the Town from taking action to compel the removal of a sign that is in violation of this by-law.

Section 9. Permitted Exceptions and Appeals

- 9.1 Any person or entity aggrieved by any decision, action, or failure to take action by the Building Inspector, or for a permitted exception to these signage by-laws, may petition the Zoning Board of Appeals for relief as established below.
- 9.2 The Zoning Board of Appeals must hold a public hearing on any such application, which shall be held and conducted in the same manner and time frames as established in the Zoning By-Law. All other application procedures established for the Zoning Board of Appeals shall also be followed for any appeal or variance applications regarding this Signage By-Law.
- 9.3 The Zoning Board of Appeals may grant permitted exceptions to the Signage By-Law only if it finds the following:
 - 9.3.1 owing to unusual and distinctive physical conditions of a site or structures thereon, or due to encumbrances or restrictions of zoning, a literal enforcement of the provisions of this by-law will impose a substantial hardship on the petitioner;

- 9.3.2 that the proposed sign or advertising device will not create a nuisance, hazard, or congestion to vehicular or pedestrian traffic; and
 - 9.3.3 that the size, location, design, color, texture, lighting, and materials of the proposed sign or advertising device will complement the architectural and natural setting of the premises.
- 9.4 When granting a permitted exception or any other relief from this Signage By-Law, the Zoning Board of Appeals may impose conditions, safeguards, and limitations to protect the purpose of this by-law.

This amendment shall take effect January 1, 2007, subject to approval of the Massachusetts Attorney General and its posting in accordance with M.G.L. Ch. 40 § 32.

85 Voted in Favor and 5 Voted Opposed. (Declared by Moderator)

Article 13: Majority voted that the Town amend its General By-Laws by deleting, in its entirety, the language in Article 2 Section 8 “Suspension of Permits and/or Licenses,” inserting in lieu thereof the following, to be entitled “Local Licenses and Permits – Failure to Pay Municipal Taxes or Charges” and read as follows:

Section 1. Applicability

Any board, officer, or department of the Town of Spencer is hereby authorized to deny any application for, or revoke or suspend a building permit, or any local license or permit including renewals and transfers, for any person, corporation or business enterprise, who has neglected or refused to pay any local taxes, fees, assessments, betterments or any other municipal charges, including amounts assessed under the provisions of Massachusetts General Laws chapter 40, section 21D, or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or matter is carried out or exercised or is to be carried out or exercised on or about real estate whose owner has neglected or refused to pay any local taxes, fees, assessments, betterments or any other municipal charges.

Section 2. Certified List of Delinquent Property Owners & Service Users

The Town Collector of Taxes shall furnish to each department board, commission or division, hereinafter referred to as the licensing authority, that issues licenses or permits including renewals and transfers, a list of any person, corporation, or business enterprise, hereinafter referred to as the party, that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges for not less than a twelve month period, and that such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the appellate tax board.

Section 3. Licensing Authority Action and Appeal

The licensing authority may deny, revoke, or suspend any license or permit, including renewals and transfers of any party whose name appears on said list furnished to the licensing authority from the town collector of taxes or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or matter is carried out or exercised or is to be carried out or exercised on or about real estate owned by any party whose name appears on said list furnished to the licensing authority from the town collector of taxes; provided, however, that written notice is given to the party and the town collector of taxes, as required by applicable provisions of law, and the party is given a hearing, to be held not earlier than fourteen days after said notice. Said list shall be prima facie evidence for denial, revocation, or suspension of said license or permit to any party. The town collector of taxes shall have the right to intervene in any hearing conducted with respect to such license denial, revocation, or suspension. Any findings made by the licensing authority with respect to such license denial, revocation or suspension shall be made only for the purposes of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial, revocation or suspension. Any license or permit denied, suspended or revoked under this section shall not be reissued or renewed until the license authority receives a certificate issued by the town collector of taxes that the party is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges, payable to the municipality as the date of issuance of said certificate.

Any party shall be given an opportunity to enter into a payment agreement, thereby allowing the licensing authority to issue a certificate indicating said limitations to the license or permit and the validity of said license shall be conditioned upon the satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds for the suspension or revocation of said license or permit; provided, however, that the holder be given notice and a hearing as required by applicable provisions of law.

The Board of Selectmen may waive such denial, suspension or revocation if it finds there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his immediate family, as defined in section one of chapter two hundred and sixty-eight A of the Massachusetts General Laws in the business or activity conducted in or on said property.

Section 4. Exemptions

The following licenses, approvals, and permits shall be exempt from the provisions of this by-law:

1. Open burning
2. Bicycle permits
3. Sales of articles for charitable purposes
4. Children work permits
5. Clubs, associations dispensing food or beverage licenses
6. Dog licenses
7. Fishing, hunting or trapping licenses
8. Marriage licenses

9. Theatrical events, public exhibition permits
10. Endorsement of ANR plans
11. Preliminary or Definitive Subdivision Plan applications
12. Variance requests
13. Orders of condition for any application before the Conservation Commission

This amendment shall take effect on January 1, 2007, subject to approval of the Massachusetts Attorney General and its posting in accordance with M.G.L. Ch. 40 § 32.

Article 14: Majority voted, as a block, to authorize the SelectBoard to:

A. Enter into an agreement, upon such terms and conditions as it deems reasonable, appropriate, and in the best interests of the town, with Wheelabrator of Millbury, Inc. (WMI) to dispose of solid waste refuse for a period of time not to exceed 20 years.

B. Enter into an agreement, upon such terms and conditions as it deems reasonable, appropriate, and in the best interests of the town, with FlexCon, Inc. for said company to utilize such services of WMI as shall be available to the town under said agreement with WMI.

C. Accept a grant of \$172,500 from said FlexCon, under the terms of said agreement and expend such funds upon capital items at the Transfer Station, as defined in the town's General By-Laws (Article 5 Section 3.2), without further appropriation.

Article 15: Majority voted that the Town Pass Over this Article.

(To see if the Town will vote to accept Dale Street as a Town Road, and/or a public way.

Article 16: Majority voted that the Town appropriate the sum of \$785,618, as proposed in the Town Administrator's budget message and published on page 25 of the Finance Committee Recommendations, for the use of the Water Department for Fiscal Year 2007, and to fund said appropriation with a transfer of \$71,898 from an account on the books of the Water Department entitled "Water Unreserved Fund" and the balance from the receipts and revenue to collected by the Water Department for the period ending June 30, 2007. (See Attached Budget)

Article 17: Majority voted that the Town appropriate the sum of \$747,118, as proposed in the Town Administrator's budget message and published on page 26 of the Finance Committee Recommendations, for the use of the Sewer Department for Fiscal Year 2007, and to fund said appropriation with a transfer of \$41,152 from an account on the books of the Sewer Department entitled "Sewer Reserve Fund" and the balance from the receipts and revenue collected by the Sewer Department for said Fiscal Year. (See Attached Budget)

Article 18: Unanimously voted that the Town appropriate the sum of \$6,609,150 for the operations of general government as proposed in the Town Administrator's budget message and published on pages 42 through 48 inclusive of the Finance Committee Recommendations, and to fund said appropriation by a transfer of \$5,000 from the Wetlands Protection Funds, anticipated receipts of \$5,002 from the Sugden Block Fund, \$64,500 from the Water Fund, \$56,500 from the Sewer Fund, \$12,000 from allocated state library grants, and the balance from taxation.

(See Attached Budget)

Article 19: Unanimously voted that the Town appropriate the sum of 25% of all monies received in FY 2007 as payment for the so-called “products,” “conveyance,” or “roll-back” tax under the provisions of MGL Chapter(s) 61, 61A and 61B to the Land Acquisition Stabilization Fund.

Article 20: Majority voted that the Town appropriate the sum of 100% of all fines, penalties and assessments received in FY 2007 as payment under the provisions of MGL Chapter 148A, as amended by Ch. 304 of the Acts of 2004, to an account entitled “Building & Fire Code Enforcement Fines.”

Article 21: Majority voted, as a block, that the Town:

A. Endorse a capital program of \$1,291,583 for equipment purchases, building improvements, betterments, and the like as generally enumerated in the Town Administrator’s budget recommendation.

B. Appropriate the sum of \$817,500 toward the costs of said program and to meet said appropriation by:

- (a) Raising and appropriating the sum of \$245,070
- (b) Transferring the sum of \$479,930 from free cash
- (c) Transferring the sum of \$35,000 from the Sewer Reserve Fund
- (d) Transferring the sum of \$57,500 from the Water Unreserved Fund

Article 22: Majority voted that the Town amend the District Agreement for the Spencer-East Brookfield Regional School District by striking the fourth full sentence in Article I Paragraph B (entitled “Members of the Committee”) and inserting in lieu thereof the following sentence, “The successors to the members of the Committee in office on July 1, 1984, shall be elected by all the voters of the district at an annual district election to be held on the second Tuesday of May of each year, or such other day as the member municipalities shall jointly agree upon, as hereinafter provided.”

Article 23: Majority voted, as a block, that the Town, provided that any amount stated herein shall be reduced to any lesser amount which shall subsequently be certified by the school committee and certified to the Town, to

A. Raise and appropriate the sum of \$5,717,088 for the use of the Spencer-East Brookfield Regional School District for Fiscal Year 2007 for the following purposes:

Base Operating Assessment	\$5,477,471 (Account #11300-56000)
Voluntary Additional Supplementary Contribution	109,301 (Account #11300-56005)
Support Our Students (third year)	75,000 (Account #11300-56520)
Capital Projects	55,316 (Account #11300-58000)

B. Raise and appropriate the sum of \$922,351 for the use of the Spencer-East Brookfield Regional School District for the Fiscal Year 2007 for the purposes of paying the costs of debt service of \$884,261 for previously approved building projects and \$38,090 for other previously approved capital projects.

C. Appropriate the sum of \$50,000, contingent upon the sum appropriated for Base Operating Assessment not exceeding the sum stated in part A above, for an additional, voluntary, and supplementary contribution to the Spencer-East Brookfield Regional School District for the purposes of computer software and hardware for the so-called Plato Program (#11300-58001) and to meet the same by a transfer from the FY 2006 OccEd Tuition Account (#11300-52000).

Article 24: Majority voted that the Town raise and appropriate the sum of \$400,000 to the Occupational Education Assessment & Tuition Account (#11300-52000) and the sum of \$41,500 to the Occupational Education Transportation Account (#11300-52100) for Fiscal Year 2007.

Article 25: Majority voted that the Town transfer the following sums from free cash to the following stabilization funds: Operations Reserve, \$125,000; Capital Reserve, \$25,000; Land Acquisitions Reserve, \$24,634.

Majority voted at 9:48 PM to dissolve this Meeting
115 Registered Voters attended this Meeting.

Jean M. Mulhall, Town Clerk